IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.478/2007

Leonid Beyzer, aged 38 years,
Russian Natioinal, presently residing
at H.No.96, Bhatir Waddo,
Morjim, Pernem, Goa. ..... Petitioner.

V/s.

1. Union of India, through the
Home Secretary, Ministry of Home Affairs,
South Block, New Delhi.

2. The State of Goa, through the
Chief Secretary,
Secretariat, Porvorim, Goa.

3. The Government of Goa, through
Under Secretary (Home-I),
Home Department (F&CD),
Secretariat, Porvorim, Goa. ..... Respondents.

Mr. Vikram Varma, Advocate for the petitioner.

Mr. C. A. Fereira, Asst. Solicitor General for the respondent No.1.

Ms. W. Coutinho, Government Advocate for the respondents No.2 and 3.

CORAM : R.S. MOHITE, J.

DATE : OCTOBER 08, 2007.

ORAL JUDGMENT :

Heard all parties. Rule. By consent, rule made returnable forthwith.

2. The petition impugns an order dated 14.9.07 purporting to be passed in exercise of powers conferred by clause (c) of sub-section (2) of Section 3 of the Foreigners Act, 1946 and ordering that the petitioner Leonid Beyzer, who is a Russian National, holder of Russian Passport valid till 2.10.2008 , will not remain in India after expiry of a period of 15 days from the date of service of the impugned order upon him.

3. The record indicates that the passport of the petitioner is valid upto 2.10.08 and that he has entered India on a business visa, permitting triple entries which is valid till 6.6.08. The record further indicates that though the impugned order was passed on 14.9.07, after passing of the order, on 22.9.07 a letter has been directed by the Pernem Police calling upon him for an inquiry on 24.9.07. This inquiry, however, is not being held by the authorities from the Home Department. From the record, it is not known as to in what connection the police inquiry is being conducted. Be that as it may, it is clear that the petitioner is not a person who is residing in India illegally. Visa

issued to him is a business visa and is presently valid.

4. On behalf of the petitioner, reference is made to a Judgment of the Apex Court in the case of ***Hasan Ali Raihany vs. Union of India and ors.,*** reported in (2006) 3 SCC 705. In the said case, the petitioner had sought a writ of mandamus quashing the order cancelling a resident visa permit. The petition was disposed off with direction to the competent authority to consider the petitioner's representation and pass appropriate orders. The Apex Court in paragraph 8 of the Judgment, observed that in the facts of that case, it was clear that the petitioner had entered the country legally and it was only fair that the competent authority must inform the reason for his deportation and further observed that this procedure may be departed from for compelling reasons of national security, etc.

5. In the present case, no reasons whatsoever are given in the impugned order. I, therefore, make rule absolute in terms of prayer clause (b). It is further directed that the Home Department, Government of Goa will be at liberty to issue a show cause notice to the petitioner and the petitioner will be entitled to give written reply to the show cause notice. The Home Department, Government of Goa may, thereafter, after dealing with the contentions of the petitioner as made out in his reply, pass a reasoned order,

if they wish to deport the petitioner. In case the final order is adverse to the petitioner, the same may not be given effect for a period of one week, subject to the condition that the petitioner reports to Pernem Police Station every day, for a period of one week from the date of service of the order upon him. Authenticated copies be furnished to the parties. Petition disposed off.

R.S. MOHITE, J.

ssm.